

In the Matter of Merchant Mariner's Document No. Z-294959-D1
Issued to: IVORY IVY DIPMORE

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

335

IVORY IVY DIPMORE

This appeal comes before me by virtue of Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

On 21 March, 1949, Appellant was charged before an Examiner of the United States Coast Guard at New York with misconduct, for that while serving as 3rd cook on the American SS MARINE TIGER under authority of his duly issued Merchant Mariner's Document Z-294959-D1, he did on or about 2 March, 1949, while said vessel was in the port of New York, unlawfully have in his possession narcotics, to wit, eleven grains of marijuana and nine grains of marijuana seed.

Voluntarily waiving his right to representation by counsel, Appellant entered a plea of "guilty with an explanation" to this charge. At a hearing on 22 March, 1949, the unsworn statement of Appellant was received wherein he admitted his possession of narcotics but claimed they had been given him by a "friend" following their mutual indulgence in several drinks. The Examiner found Appellant was guilty by virtue of the plea and entered an order revoking the documents identified above and all other documents or certificates held by this Appellant.

From that order this appeal has been taken by a letter in which the following points are presented:

- (a) Appellant had no knowledge of the presence of marijuana on his person when he was arrested;
- (b) His lockers on the ship were searched and no narcotics were found;
- (c) He was under the influence of alcohol when someone gave him the cigarettes and told him to put them in his socks;
- (d) He had no intention to use the marijuana because he was afraid of it;
- (e) He would not do anything to hurt himself or his fellow seamen;
- (f) He has never been in trouble before;
- (g) He has sailed all through the war; has also been torpedoed; and saw action in the Mediterrean Sea;
- (h) He admits his mistake but wishes the return of his papers.

Based upon a careful consideration of the record before me, I make the following

FINDINGS OF FACT

On or about 2 March, 1949, Appellant was serving as 3rd cook on the American merchant vessel SS MARINE TIGER under authority of his duly issued Merchant Mariner's Document No. Z-294959-D1.

At about 10:30 A.M. that date, Appellant left the ship and took his overcoat to a nearby cleaner. When returning to the ship he stopped at a bar for a drink and as he left that bar, he met a friend and returned to the bar where they chatted and drank. In the course of the conversation, the "friend" gave Appellant two marijuana cigarettes and advised Appellant to place them in his socks.

Eventually Appellant became intoxicated and returned to the ship where he remained for several hours in slumber. At some time between 4 and 4:30 he awakened and started to leave the ship to

recover his overcoat when he was accosted by an inspection officer of the Customs Service and upon being searched, there were discovered (what later proved to be) eleven grains of marijuana and nine grains of marijuana seed - the marijuana being in cigarette form secreted in Appellant's socks and the seed was in his trousers' hip pocket.

Appellant admits possession of the cigarettes but denies knowledge of the time when or the place where the seed was put upon his person.

The United States Attorney having jurisdiction declined prosecution because of the small quantity of narcotics involved; however, Appellant paid a fine imposed by the Customs Service for failure to declare the narcotics in his possession.

OPINION

Appellant was not intoxicated when he undertook to secrete the cigarettes on his person to avoid discovery; from his own testimony his intoxication did not occur until sometime later. There is a suggestion that Appellant did intend to use the cigarettes which were later found; and that he had used marijuana on two or three earlier occasions. These suggestions were not denied or refuted by Appellant.

The nation is genuinely grateful to merchant mariners who sailed in any theater of war but there can be no relaxation of the well-established policy that declares persons who use or are associated with traffic in narcotics or drugs are undesirable as merchant seamen.

The Coast Guard has a duty to protect the lives and property of seamen and owners, and that duty is not fulfilled if persons who admittedly use or handle narcotics are permitted to sail as merchant seamen.

CONCLUSION AND ORDER

Full consideration has been given each point raised on this appeal but I find no good reason to interfere with the action

taken.

The order of the Examiner dated 22 March, 1949, is, therefore, AFFIRMED.

J. F. FARLEY
Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 13th day of June, 1949

***** END OF DECISION NO. 335 *****

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